

IN RE: PETITION FOR ZONING VARIANCE
W/S Frog Mortar Road, 40' W
and 50' W of the c/l of
Revolva Beach Road
(830 Frog Mortar Road)
15th Election District
7th Councilmanic District
David B. Michels, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-104-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit side yard setbacks of 8 feet each in lieu of the required 10 feet per side, and to permit a front yard setback of 35 feet in lieu of the required average of 40 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the Petition was John Arkuszewski, Contractor. There were no protests.

Testimony indicated that the subject property, known as 830 Frog Mortar Road and zoned D.R. 5.5, is waterfront property which has been used by Petitioners as a summer home since their purchase of same in 1973. The property is located on Frog Mortar Creek. Petitioners now propose making the property their year round residence. In order to do so, however, Petitioners must raise the existing dwelling and garage. Petitioners would then build a house which would be further back off the water than the present dwelling which is approximately one and one-half feet from the property line. Due to the narrow width and length of the property, front and side yard variances will be required to build a house of sufficient size to meet the family's needs. Petitioner pointed out that the variances requested are not exceptionally large and are required to maintain a septic system.

Petitioners testified that they have reviewed the comments of Robert W. Sheesley, Director, Department of Environmental Protection and Resource Management, and Gerard S. Zitnik, Jr., Bureau of Water Quality and Resource Management, both dated July 15, 1988 and will comply with the requirements and recommendations set forth therein.

Mr. Michels testified they have spoken to the adjoining property owners who have no objection to their request as they see Petitioners' plans as an improvement to the neighborhood. Petitioners contend there will be no detriment to the health, safety and general welfare of the community if the variances are granted and that they would suffer unreasonable hardship if the variances were denied.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay

Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is

compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 4th day of October, 1988 that the Petition for Zoning Variance to permit side yard setbacks of 8 feet each in lieu of the required 10 feet per side and to permit a front yard setback of 35 feet in lieu of the required average of 40 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, including those submitted by the Bureau of Water Quality and Resource Management, as set forth in their comments dated July 15, 1988, attached hereto and made a part hereof.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1, 303.1 To allow side yard setbacks of 8 ft. in lieu of the required 10 ft. per side and to allow a front setback of 35 ft. in lieu of the front yard average of 40 ft. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty) Strict compliance would render conformance unnecessarily burdensome. Plans for the proposed dwelling could not be altered to fit a narrower building footprint without completely altering it's livability, style, usefulness, and future value.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name) David B. Michels
Signature [Signature]
Address 13110 Falls Rd.
City and State Cockeysville, Md.
Attorney for Petitioner:
(Type or Print Name) Address Phone No.
Signature City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State
Name Address Phone No.
Attorney's Telephone No.: 292-2633

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of August, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 29th day of August, 1988, at 2 o'clock P.M.
ESTIMATED LENGTH OF HEARING 1/2 HR.
AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER DATE 6/16/88
REVIEWED BY [Signature] DATE 6/16/88
Critical Area

ZONING DESCRIPTION

Being known and designated as Lots Numbers 20 and 21 of Revolva Beach as shown on Plat of Revolva Beach, the property of Overlea Land Company which Plat is duly recorded and filed among the Land Records of Baltimore County in Plat Book W.P.C. No. 5, folio 67. The improvements thereon being known as 830 Frog Mortar Road.

Beginning on the west side of Frog Mortar Road 40 feet wide, at the distance of 50 feet north of the center line of Revolva Beach Road. Said property is located in the 15th election district.

Mr. J. Robert Haines
Baltimore County Zoning Commission
Towson, Maryland

RECEIVED ZONING OFFICE
DATE: 6/16/88

Dear sir:
As this Variance Petition concerns rebuilding a waterfront house, and the Owners are eager to complete the construction before the entire summer season is lost, we respectfully request, if possible, as early a hearing date as can be arranged.

Thanking you in advance for your consideration, I am sincerely,

ITEM # 452 MICHELIS

J.A. Arkuszewski, Jr.

ARIES BUILDERS
391-5570

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 15th Date of Posting 9/1/88
Posted for: Variance
Petitioner: David B. Michels, et ux
Location of property: W/S Frog Mortar Rd., 40' W of Revolva Beach Rd., 50' N of Frog Mortar Rd.
Location of Sign: Facing Frog Mortar Rd., approx. 18 ft. West of corner property of P. Michels
Remarks: [Signature]
Posted by: [Signature] Date of return: 9/1/88
Number of Signs: 2

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222 September 8, 1988 19

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case #89-104-A - P.O. #04134 - Reg. #M18936 - 92 line \$46.00 was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one week, before the 9th day of September 1988; that is to say, the same was inserted in the issues of September 8, 1988

Kimbel Publication, Inc.
per Publisher.

By [Signature]

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD., September 12, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md, once in each of successive weeks, the first publication appearing on Sept. 8, 1988

THE JEFFERSONIAN,

Publisher

S. Zeke Olson

#37,50
FO# 04133
RGA# M18935

SALES & LEGAL NOTICES
NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Board of Planning and Zoning, will hold a public hearing in Room 100 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland at the following time:
Petition for Zoning Variance
Case Number: 89-104-A
WS Frog Mortar Road, 40' wide, 50' N c/l Revolvea Beach Road (830 Frog Mortar Road)
15th Election District - 7th Councilmanic District
Petitioner(s): David B. Michels, et al
Hearing Scheduled: Thursday, September 22, 1988 at 2:00 p.m.
David B. Michels, et al
Hearing Officer: Mr. Haines
Sept. 22, 1988 2:00 p.m.
Variances to allow a side yard setback of 8 ft. in lieu of the required 10 ft. per side and to allow a front setback of 35 ft. in lieu of the front average of 40 ft.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner
9118 Sept. 8

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

Date: 7/16/88

Mr. & Mrs. David B. Michels
13110 Falls Road
Cockeysville, Maryland

Re: Petition for Zoning Variance
CASE NUMBER: 89-104-A
WS Frog Mortar Road, 40' wide, 50' N c/l Revolvea Beach Road (830 Frog Mortar Road)
15th Election District - 7th Councilmanic District
Petitioner(s): David B. Michels, et al
HEARING SCHEDULED: THURSDAY, SEPTEMBER 22, 1988 at 2:00 p.m.

Dear Mr. & Mrs. Michels:

Please be advised that \$98.50 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the fee(s) and post set(s) to the office, County Office Building, Room 100, 111 W. Chesapeake Avenue, Towson, Maryland 21204, 15 minutes before

and post set(s), there or each set not

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 9/29/88 ACCOUNT: R-01-615-000
AMOUNT: \$ 98.50
RECEIVED: David B. Michels, et al
FOR: 9/29/88
B 100*****9850:0 0254F
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204
Zoning Item #452, Zoning Advisory Committee Meeting of June 28, 1988
Property Owner: David Michels
Location: WS Frog Mortar Rd. District 15
Water Supply: Public Sewage Disposal: private
COMMENTS ARE AS FOLLOWS:
() Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
() Prior to new installation/s of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation/s before work begins.
() A permit to construct from the Bureau of Air Quality Management is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
() A permit to construct from the Bureau of Air Quality Management is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
() Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
() Prior to any new construction or substantial alteration of public swimming pool wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Regional Community Services, 494-3811.
() Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
() If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
() Prior to razing of existing structure/s, petitioner must contact the Division of Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 494-3775. Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 494-3768.
() Soil percolation tests, have been conducted. The results are valid until...
() Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
() Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
() In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shall be valid until...
() If not acceptable and must be repeated. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
() Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
() If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.
() Others: exact location of sewage disposal system must be shown on site plan prior to bldg. permit approval.

James E. Dyer
Chairman
Zoning Plans Advisory Committee

BUREAU OF WATER QUALITY AND RESOURCE MANAGEMENT

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner

August 17, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 100 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-104-A
WS Frog Mortar Road, 40' wide, 50' N c/l Revolvea Beach Road (830 Frog Mortar Road)
15th Election District - 7th Councilmanic District
Petitioner(s): David B. Michels, et al
HEARING SCHEDULED: THURSDAY, SEPTEMBER 22, 1988 at 2:00 p.m.

Variances to allow side yard setbacks of 8 ft. in lieu of the required 10 ft. per side and to allow a front setback of 35 ft. in lieu of the front average of 40 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: David B. Michels, et al
File
C. Ray Christman, Comm.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
JUL 25 1988

TO: Mr. J. Robert Haines
Zoning Commissioner
DATE: July 15, 1988
FROM: Mr. Robert M. Sheesley
SUBJECT: Mr. & Mrs. David Michels Property
830 Frog Mortar Road - Zoning Variance

Subject property is located at 830 Frog Mortar Road along Frog Mortar Creek in Baltimore County. The site is approximately 10,000 square feet with an existing dwelling and garage to be removed. The applicant is proposing building a 2,012 square foot single family dwelling and garage 95 feet from Frog Mortar Creek.

The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding that projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts. (COMAR 14.15.10(1)(1)(2)(3))

The proposed development will comply with the law provided that the zoning variance is conditioned on compliance with the following requirements:

1. Two major deciduous trees or four conifers are planted or maintained on the lot. A combination of these is acceptable provided that 2,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.
2. Storm water runoff from impervious surfaces associated with the project should be directed over pervious areas such as lawn to encourage maximum infiltration.

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: David B. Michels, et ux
Location: WS Frog Mortar Rd., 50 fr. N of centerline of Revolvea Beach Rd. (#830 Frog Mortar Rd.)
Item No.: #452 Zoning Agenda: Meeting of June 28, 1988

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] 7-9-88 Noted and Approved: [Signature]
Planning Group
Special Inspection Division
Fire Prevention Bureau

/s/

Mr. J. Robert Haines
July 15, 1988
Page 2

3. Rooftop runoff from drain spouts should be directed across splash blocks and into dry wells designed in accordance with the standards listed in Controlling Urban Runoff...B. Practical Manual for Planning and Designing Urban Runoff, Department of Environmental Programs, July 1987, p. 5.10.

Please contact Mr. David C. Flowers at 494-3980 if you have any questions.

RWS:DCF:tjg

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Towson, Maryland 21204
494-3554

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number

391, 413, 438, 439, 442, 443, 444, 446, 447, 448, 450, 451, 452, 453, 454, 455, 456, and 457.

Very truly yours,

[Signature]
Stephen E. Weber, P.E.
Assistant Traffic Engineer

SEW/RF/cps

Hand-drawn site plan of a property. The plan shows several structures and areas with dimensions and labels:

- Top Section:** A road labeled "VICINITY MAD" runs horizontally. Above it, a road is labeled "AB NE 3K". A north arrow points upwards. A "SUBJECT PROPERTY" is indicated with a line pointing to a small structure on the left.
- Central Section:** A large rectangular area is labeled "EX. SEPTIC". To its right is a structure labeled "EX. GLASS PANTRY". Further right is a structure labeled "EX. DWG". A "PROPOSED DWELLING" is indicated with a line pointing to a hatched area. Dimensions include "200'±" and "35'±".
- Bottom Section:** A large rectangular area is labeled "EX. DWG. #820". To its right is a structure labeled "EX. DWG. #820". A "TO BE RAISED" label is present. Dimensions include "50'±" and "35'±".
- Right Side:** A structure labeled "EX. DWG." is shown. A "TO BE RAISED" label is present. Dimensions include "35'±" and "35'±".
- Bottom Left:** A structure labeled "EX. DWG. 59" is shown. A "TO BE RAISED" label is present. Dimensions include "9'±" and "68'±".
- Bottom Right:** A structure labeled "EX. DWG." is shown. A "TO BE RAISED" label is present. Dimensions include "11'±" and "35'±".
- Other Labels:** "EX. FENCES", "OPEN JUNK 12x23", "EX. SEPTIC", "EX. GLASS PANTRY", "EX. DWG.", "EX. DWG. #820", "EX. DWG. 59", "EX. DWG.", "TO BE RAISED", "PROPOSED DWELLING", "SUBJECT PROPERTY", "VICINITY MAD", "AB NE 3K", "N".

FROG MORTAR ROAD

50-
PETITIONER
EXHIBIT 1 | **sign**
452
CRITICAL A

DATE	10 APRIL 88	SHEET
MR & MRS DAVE MICHAELS		6
890 FROG HOPPED RD.		
BATHING SPRING MD. 21222		
DRAWN BY		
APPLES BUILDERS		

